

§ 905.3

while onboard the vessel of a consenting owner.

Magnuson Act means the Magnuson Fishery Conservation and Management Act, as amended, 16 U.S.C. 1801 *et seq.*, and implementing regulations.

MMPA means the Marine Mammal Protection Act, as amended, 16 U.S.C. 1361 *et seq.*, and implementing regulations.

Secretary means the Secretary of Commerce, the Secretary of the Interior, their chosen designees, or any other Federal agency authorized to enforce the provisions of the Magnuson Act, MMPA, or ESA.

Vessel means any vessel as defined at 16 U.S.C. 1802(31).

Voluntary fishery data collector means:

- (1) Any person, including an observer or a sea sampler;
- (2) Placed aboard a vessel by the Secretary;
- (3) For the purpose of collecting information; and
- (4) Whose presence aboard that vessel is not required by the Secretary pursuant to provisions of the Magnuson Act, MMPA, or ESA, or their implementing regulations.

§ 905.3 Access to information.

Information collected by a voluntary fishery data collector:

- (a) Is subject to disclosure to both the Secretary and the public, to the extent required or authorized by law; and
- (b) Is subject to discovery by any party to an enforcement proceeding, to the extent required or authorized by law.

§ 905.4 Use of information.

(a) Except as provided for in paragraph (b) of this section, information collected by a voluntary fishery data collector may not be introduced by the Secretary as evidence against any consenting owner that is a party to an enforcement proceeding.

(b) Provided that all applicable evidentiary requirements are satisfied:

(1) Information collected by a voluntary fishery data collector may be introduced in an enforcement proceeding by any party except the Secretary;

(2) If information is introduced pursuant to paragraph (b)(1) of this sec-

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tion, all information collected by a voluntary fishery data collector may be introduced by any other party, including the Secretary.

(c) Independent evidence derived from information collected by a voluntary fishery data collector may be introduced by any party, including the Secretary, in an enforcement proceeding.

§ 905.5 Exceptions.

The provisions of this part shall not apply in any enforcement proceeding against a consenting owner that alleges the actual or attempted:

- (a) Assault, intimidation, or harassment (including sexual harassment) of any person; or
- (b) Impairment or interference with the duties of a voluntary fishery data collector.

PART 908—MAINTAINING RECORDS AND SUBMITTING REPORTS ON WEATHER MODIFICATION ACTIVITIES

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- 908.19 Publication of notice of proposed amendments.
- 908.20 Effective date.
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